

TAX APPEAL PROCEDURES

BEFORE THE STATE TAX APPEAL BOARD

1. **SCOPE.** The following are procedures to be followed in all appeals before the State Tax Appeal Board (STAB).
2. **MOTIONS.** (a) Upon filing a motion, the moving party shall file a Brief. The Brief may be accompanied by appropriate supporting documents. Within ten days thereafter the adverse party shall file an Answer Brief which also may be accompanied by supporting documents. Within ten days thereafter movant may file a Reply Brief or other appropriate responsive documents.

(b) Failure to file a Brief by the moving party shall be deemed an admission that the motion is without merit and subject the motion to summary ruling. Failure to file an Answer Brief by the adverse party within ten days shall be deemed an admission that the motion is well taken. Reply briefs are optional and failure to file will not subject a motion to summary ruling.

(c) The Board may order oral argument sua sponte or upon application of a party.

(d) Unless oral argument is ordered, or unless the time is enlarged by the Board, the motion is deemed submitted at the expiration of any of the applicable time limits set forth above without supporting Briefs having been filed.

If oral argument is ordered, the motion will be deemed submitted at the close of an argument unless the Board orders additional Briefs; in which case the motion will be deemed submitted as of the date designated as the time for filing the final Brief.

(e) Time computation shall be governed by Rule 6(a), M.R.Civ.P.
3. **EX PARTE MATTERS.** (a) Extension of time to file Briefs,

continue a hearing on a motion and other permissible ex parte matters may be granted by order of the Board upon written application.

(b) Prior to the issuance of an Ex Parte Order the party seeking such Order must file a Written Certification with the Board declaring that opposing party has been contacted and given reasonable notice of:

(A) The time and place of the Ex Parte Conference or Meeting;

(B) The substance of the Order sought;

(C) Whether the party opposes the motion.

(c) All requests for extension of time or continuance or other ex parte matters shall be accompanied by an appropriate form or order with sufficient copies for the Board to mail to adverse parties.

4. FILING OF DISCOVERY - LIMITATIONS. (a) Discovery requests and answers thereto or depositions shall not be routinely filed. When a motion is filed making reference to discovery, the party filing the motion shall submit with the motion relevant unfiled documents, depositions, interrogatories, requests for admissions and answers and responses thereto that the parties intend to introduce into evidence.

(b) Unless otherwise ordered or stipulated, no party may serve on any other party more than 50 interrogatories in the aggregate. Each subpart shall be counted as a separate interrogatory. Additional interrogatories may be submitted for good cause only by leave of the Board.

(c) Unless otherwise ordered, no discovery is available to any party after the hearing on the appeal has been set.

5. **PRE-HEARING ORDER AND PRE-HEARING CONFERENCE.** (a) Pre-Hearing. Unless otherwise ordered by the Board, a pre-hearing

conference shall be held in all appeals except property taxes, inheritance and estate taxes (see Rule 16, M.R. Civ. P.).

(b) Not later than five days prior to a pre-hearing conference, the parties shall convene a conference for the purpose of preparing a pre-hearing order. The proposed pre-hearing order shall be presented for signature at the pre-hearing conference. In the event of a dispute as to the contents of the order, such dispute shall be presented to the Board for resolution at the pre-hearing conference. Not later than 30 days prior to the pre-hearing conference, the parties shall exchange exhibits and a list of witnesses which shall include a narrative summary of their expected testimony and, in case of an expert, their qualifications and their opinions and the basis for each opinion.

(c) Pre-Hearing Order. The pre-hearing order shall be substantially in the form of a pre-trial order as provided in Rule 5 of the Uniform District Court Rules insofar as applicable.

6. **SUBPOENAS.** The service of subpoenas must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. The method for service of subpoenas, witness fees and mileage shall be the same as required in civil actions in the district courts of the state. Except as otherwise provided by statute, witness fees and mileage shall be paid by the party at whose request the subpoena was issued.

7. **THE HEARING.** Any party may be represented by an attorney, but an attorney is not required. (Section 2-4-105, MCA).

Any party may be represented at the hearing by a spouse or other relative or person who has an interest in, or knowledge of,

the property involved in the appeal.

To permit adequate cross-examination and ensure that the party's interest is adequately represented, any person who appears in lieu of the party of record must be fully informed of the case and of all pertinent information which is known to the party of record.

EXHIBITS

Exhibits will be marked for identification, and kept by the Board as a part of the permanent record of the proceedings. If a party does not wish that an original document be made a permanent part of the Board record, that party must prepare a copy of such document and present it at the hearing together with the original document, if possible. The Board may admit the copy into the record after opportunity for examination is afforded all parties present at the hearing, and when the Board is satisfied that it is a true and correct reproduction of the original document.

The hearing before the State Tax Appeal Board is de novo, that is, we are starting over again to gather testimony and evidence regarding your appeal. Therefore, please be prepared to present all exhibits that you may have submitted before the county tax appeal board. Don't assume that this Board received those exhibits from the county board. You may also present any new evidence beyond that presented at your county level hearing which you feel will further your cause.

Please be prepared to present four (4) copies of each exhibit to be presented: one for each of the three board members and one for the opposing party.

TESTIMONY

All testimony shall be given under oath or affirmation.

Witnesses will be sworn in by the Board before testifying. The procedure followed by the Board shall be as follows: The appealing party (the taxpayer or the Department of Revenue) will present his case first. At the conclusion of the appealing party's testimony, the opposing party may ask questions. The opposing party then presents his case, and the appealing party may ask questions. In the case of a cross appeal, that is, where both parties have appealed the decision of the county tax appeal board, the party whose appeal was received earliest by this office will present his case first. Both parties will be allowed time for brief closing statements. The Board reserves the right to interrupt the proceedings at any time with questions. However, because this hearing will be recorded and may have to be transcribed, we will not allow either party to interrupt the other during testimony. You must reserve your questions until the conclusion of the testimony of each witness.

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